

## **ABERDEENSHIRE LICENSING BOARD**

**Minute of the Meeting of the ABERDEENSHIRE LICENSING BOARD, held by MICROSOFT TEAMS only on 28 JUNE 2023 at 10.15 am**

*Sederunt:*

*Board Members:*

*Mrs M Ewenson(Convenor), Ms Dawn Black (Vice-Convenor), Mr Stewart Adams, Mr Geoff Crowson, Mr Trevor Mason, Mr Richard Menard (until the end of item 7), Mrs Jenny Nicol and Ms Mel Sullivan*

*In Attendance: Fiona M Stewart, Depute Clerk to the Board; Martin Ingram, Principal Solicitor (Governance); Lisa Godini, Sarah Ward and Kevin MacDonald, Licensing Standards Officers; PC Ian Duthie, Police Scotland; Harriet Tevendale, Paralegal*

*Observing: Jenny Mearns, Administrator (Livestream); Beatrice Hay, Administrator*

*Forum Members: None*

*Apologies:*

*Mr Jeff Goodhall and Mr Iain Taylor.*

*Apologies were also received from Jill Joss and Lynsey Kimmitt, Depute Clerks, Sergeant Neil Grant, Police Scotland; and Keith Simpson, Senior Licensing Standards Officer.*

*The Convenor welcomed everyone to the meeting.*

### **1 Sederunt and Declaration of Members' Interests**

The Chair asked Members if they had any interests to declare, in terms of the Councillors' Code of Conduct.

*Mrs Ewenson (Convenor) declared an interest in item 7 on the agenda by reason of a family member being connected to the applicant. She left the meeting and took no part in the consideration of the item.*

*Ms Dawn Black (Vice-Convenor) chaired item 7 in the Convenor's absence.*

### **2 Public Sector Equality Duty**

In taking decisions on the undernoted items of business, the Committee **agreed**, in terms of Section 149 of the Equality Act 2010:-

(1) To have due regard to the need to:-

- (a) eliminate discrimination, harassment and victimisation;
  - (b) advance equality and opportunity between those who share a protected characteristic and persons who do not share it; and
  - (c) foster good relations between those who share a protected characteristic and persons who do not share it, and
- (2) to consider, where an Integrated Impact Assessment has been provided, its contents and to take those into consideration when reaching a decision.

**3 Draft minutes 26th April 2023**

The Board agreed the minutes were a correct record of the meeting.

**4 Premises and Provisional Licences - Non Contentious**

*Following consideration of a report by the Clerk, dated 15<sup>th</sup> June 2023 in respect of applications for premises/provisional premises licences, copies of which had been circulated in advance, the Board decided the applications as undernoted:*

**1. Haddo House, Methlick, Ellon, AB41 7EQ**

*Granted subject to*

- *the local conditions set out in the Board report,*
- *the specific conditions set out in the Board report*

**5 Major Variations Report - Non-Contentious**

*Following consideration of a report by the Clerk, dated 15<sup>th</sup> June 2023 in respect of applications for major variations of premises licences, copies of which had been circulated in advance, the Board decided the applications as undernoted:*

**1. Balmoral Estate, Ballater, AB53 5TB**

*Granted subject to*

- *the local conditions set out in the Board report,*
- *The specific conditions set out in the Board report*

**2. The Rustic Grill, 13-15 Balmellie Street, Turriff, AB53 4DW**

*Granted subject to*

- *the local conditions set out in the Board report,*

**3. The Clerkhill Inn, Baylands Crescent, Peterhead, AB42 2YA**

*Granted subject to*

- *the local conditions set out in the Board report,*
- *The specific conditions set out in the Board report*

**4. The Butchers Arms, 14 West High Street, Inverurie, AB51 3SA**

Granted subject to

- the local conditions set out in the Board report,
- The specific conditions set out in the Board report

**5. The Tolbooth, Old Pier, Stonehaven, AB39 2JU**

Granted subject to

- the local conditions set out in the Board report,

**6. Fraserburgh Indoor Leisure Centre, North Links, Seaforth Street, Fraserburgh, AB43 9BB**

Granted subject to

- the local conditions set out in the Board report,
- The specific conditions set out in the Board report

**6 Major Variation - Hearing - Fraserburgh Leisure Centre**

This hearing did not proceed, the parties having agreed the terms of additional conditions prior to the date of the Board. The application was granted as a non-contentious report Minuted as Item 5(6) above.

**7 Major Variation - Hearing - Banchory Lodge Hotel**

1. The applicant was represented by Janet Hood, solicitor, Edzell. Christopher Hodgens, Director, was also in attendance at the hearing as an Observer.
2. PC Ian Duthie, Police Scotland represented the Chief Constable.
3. Lisa Godini, Licensing Standards Officer represented Keith Simpson Senior Licensing Standards Officer who was unable to attend the Hearing.
4. Mr Alan Jackson, Objector was neither present nor represented at the hearing. He had lodged written submissions which had been circulated to all parties and Board Members in advance of the meeting. His written representation and submissions were considered by the Board in determining the application.
5. Mr Coutts, objector, had withdrawn his objection and did not therefore take part in the hearing.
6. Mr Gray was unable to attend the meeting. His objection was considered by the Board in determining the application.
7. Dr and Mrs Shanks were present at the hearing by phone.
8. Mr Wilson was present at the hearing by phone.
9. Preliminary Issue
  - a. Mr Wilson requested that the meeting be postponed on the basis that he had not been provided with proper notice of the hearing and had not had adequate time to engage legal representation or prepare for the hearing.
  - b. The Board heard the applicant's agent in respect of the request for the postponement and argued that Mr Wilson had lodged an objection on time, had received the required legal notice of the hearing and that her client was ready to proceed.
  - c. The Depute Clerk acknowledged that Mr Wilson had not received 14 days' notice of the meeting as was the Board's standard practice, but that Mr Wilson had received formal notice 8 days in advance of the hearing.

*The statutory requirement under the Licensing (Procedure)(Scotland) Regulations 2007 was for 7 days' notice of hearing to be given to all parties which had been met.*

- d. The Board concluded they had sufficient evidence upon which to make a decision in relation to the preliminary matter.*
- e. Mrs Black, seconded by Mr Adams, moved as a motion that sufficient notice had been given and that the hearing should proceed.*
- f. No amendment was proposed.*
- g. The Board confirmed that the decision to proceed was unanimous.*
- 10. The applicant was invited to speak to the application*
- 11. PC Duthie spoke to the Chief Constable's Representation*
- 12. Lisa Godini spoke to the Licensing Standards Officer's representation*
- 13. Dr Shanks spoke to his objection.*
- 14. Mr Wilson spoke to his objection.*
- 15. The applicant was afforded an opportunity to respond to the submissions made by the other parties*
- 16. An opportunity was afforded to Members to ask questions of all parties*
- 17. The Board invited concluding remarks in reverse order*
  - a. Mr Wilson made concluding remarks*
  - b. Dr Shanks made concluding remarks*
  - c. Lisa Godini made concluding remarks.*
  - d. PC Duthie made concluding remarks*
  - e. Mrs Hood made concluding remarks*
- 18. No legal advice was required from the Depute Clerk*
- 19. The Depute Clerk read out the terms of the legal test, advising Members of which sections were relevant and not relevant to the application under consideration. She also reminded Board Members that planning matters, noise matters, land ownership, and public access to land in Scotland were all matters regulated by other legislation/regulatory bodies and could not be taken into account by the Board in determining whether the application could be granted, as was enforcement of any breach of operation under the Covid Regulations. The purpose of the hearing also for the Board to determine whether the terms of the variation application could be granted and not whether there were any issues with the operation of other parts of the licensed premises in terms of the premises licence currently held.*
- 20. The Board opted not to adjourn to deliberate the application*
- 21. The Board was satisfied they had sufficient information to make a decision*
- 22. Mr Mason, seconded by Mr Menard, moved as a motion that the application be granted on the basis that there was no relevant evidence before the Board to engage any of the relevant grounds of refusal set out in the Legal Test under the Act. This was subject to local condition 31 having a terminal hour of 2230, as agreed to by the Applicant during the hearing.*
- 23. No amendment was proposed.*
- 24. The Board confirmed that support for the motion was unanimous*

*The decision of the Board was therefore that the APPLICATION WAS GRANTED subject to the recommended local and specific conditions set out at Section 3.11 and 3.12 of the report with Local Condition No 31 having a terminal hour of 2230 hours.*

*The Board further agreed to recommend that the Licensing Standards Officers, using their mediation role, bring together the Licence Holder, the neighbours, and the*

relevant Council Services to see if a solution could be found to some of the issues raised during the hearing which fell outwith the remit of the Board for consideration.

## **8 Approval of Draft Policy Statement for Formal Consultation Report**

Having considered the terms of a report by the Depute Clerk seeking approval of the Draft Statement of Licensing Policy for the purpose of consultation thereon, dated 20<sup>th</sup> June 2023, copies of which had been circulated to members in advance, the Board:

- a. Noted the terms of the updated Timeline for Review of the Policy Statement as set out in Appendix 1 to the report.
- b. Considered and approved the Draft Statement of Licensing Policy as set out in Appendix 2 to the report for the purposes of carrying out a formal consultation exercise.
- c. Approved the terms of the Consultation Timeline attached as Appendix 3 to the report and
  - i. Agreed to consider approval of the Final Statement of Licensing Policy at a Special Meeting of the Board to be held on 25<sup>th</sup> October 2023; and
  - ii. Authorised the Clerk to the Board to conduct the consultation exercise on their behalf.
- d. Noted the terms of the updated draft Integrated Impact Assessment in relation to the review process.
- e. Noted that an update report would be brought to the Board at their meeting on 16<sup>th</sup> August 2023.

## **9 Date of Next Board Meeting**

Noted.

The Convenor drew the meeting to a close, at which point the recording of the meeting ended.

**The recordings of the meeting can be found at the following links:**

[Part One](#)

[Part Two](#)